

**FILED**

FEB 26 2007

**E-Filing**RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIASCOTT N. SCHOOLS (SCBN 9990)  
United States AttorneyMARK L. KROTOSKI (CSBN 138549)  
Chief, Criminal DivisionDENISE MARIE BARTON (MABN 634052)  
Assistant United States Attorney450 Golden Gate Avenue, Box 36055  
San Francisco, CA 94102  
Telephone: (415) 436-7359  
Facsimile: (415) 436-7234

Attorneys for Plaintiff

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

ARMANDO GIL-TSUN,

Defendant.

No. 07-70076 MEJ

REVISED ~~[PROPOSED]~~ ORDER AND  
STIPULATION EXCLUDING TIME FROM  
FEBRUARY 26, 2007 TO MARCH 19, 2007  
FROM THE SPEEDY TRIAL ACT  
CALCULATION (18 U.S.C. § 3161(h)(8)(A))

On February 7, 2007, the Honorable Maria Elena James issued a Complaint charging the Defendant with a violation of Title 8, Section 1326 and on February 9, 2007, the Defendant was arraigned on that Complaint. On February 15, 2007, the Defendant waived a detention hearing without prejudice and the matter was set for a Preliminary Hearing on February 26, 2007.

On February 14 and 15, 2007, counsel for the Government served counsel for the Defendant with discovery in this matter. Counsel for the Government and Defendant are currently discussing a pre-indictment resolution of this case. Further, counsel for the Defendant does not believe it is in his client's best interests for the government to indict the case within 30 days of arrest on the Complaint, as required under 18 U.S.C. § 3161(b).

On February 22, 2007, the parties filed a Proposed Order and Stipulation seeking to exclude

1 time that did not seek the full relief requested herein.

2 Accordingly, the parties have agreed as follows:

- 3 1. That Proposed Order and Stipulation filed on February 22, 2007 should not be acted upon  
4 by the Court and is hereby amended.
- 5 2. The Preliminary Hearing shall be removed from the February 26, 2007 calendar and be  
6 continued until March 19, 2007.
- 7 3. The Defendant agrees to an exclusion of time under the Speedy Trial Act. Failure to  
8 grant the requested continuance would unreasonably deny both Government and Defense  
9 counsel reasonable time necessary for effective preparation, taking into account the  
10 exercise of due diligence, the need for both sides to investigate the facts of the case, and  
11 the on-going attempts to reach a pre-indictment disposition.
- 12 4. Given these circumstances, parties agree and the Court should find that the ends of justice  
13 served by excluding the period from February 26, 2007 to March 19, 2007 outweigh the  
14 best interest of the public and the Defendant in a speedy trial. Id. § 3161(h)(8)(A).

15 IT IS SO STIPULATED.

16 DATED: February 23, 2007

17 /s/  
DENISE MARIE BARTON  
Assistant United States Attorney

19 DATED: February 23, 2007

20 /s/  
STEVEN J. KOENINGER  
Attorney for ARMANDO GIL-TSUN

21 IT IS SO ORDERED.

22 Pursuant to the parties' Stipulation and for the reasons set forth above, the Preliminary Hearing  
23 shall be removed from the February 26, 2007 calendar and continued until March 19, 2007 and  
24 the time from February 26, 2007 to March 19, 2007 shall be excluded from the Speedy Trial Act  
25 calculations.

27 DATED: 2-26-07

28   
THE HON. MARIA ELENA JAMES  
United States Magistrate Judge